

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 99-6635

JAMES OTIS KELLEY,

Petitioner - Appellant,

versus

UNITED STATES OF AMERICA,

Respondent - Appellee.

No. 99-6666

JAMES OTIS KELLEY,

Plaintiff - Appellant,

versus

UNITED STATES OF AMERICA; US MARSHALS, Baltimore, Maryland; UNITED STATES POSTAL SERVICE, Arlington, Virginia; THE UNITED STATES ATTORNEY GENERAL, Baltimore, Maryland; FEDERAL CORRECTIONAL INSTITUTION, BUTNER, NC,

Defendants - Appellees.

Appeals from the United States District Court for the Eastern District of North Carolina, at Raleigh. Malcolm J. Howard and James C. Fox, District Judges. (CA-98-318-5-H, CA-98-319-5-F3)

Submitted: July 8, 1999

Decided: July 15, 1999

Before NIEMEYER, WILLIAMS, and KING, Circuit Judges.

No. 99-6635 affirmed and No. 99-6666 dismissed by unpublished per curiam opinion.

James Otis Kelley, Appellant Pro Se. Rudolf A. Renfer, Jr., Assistant United States Attorney, Raleigh, North Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

In No. 99-6635, James Otis Kelley appeals the district court's orders denying relief on his petition filed under 28 U.S.C.A. § 2241 (West 1994 & Supp. 1999). We have reviewed the record and the district court's opinions and find no reversible error. Accordingly, we affirm on the reasoning of the district court. See Kelley v. United States, No. CA-98-318-5-H (E.D.N.C. Nov. 4, 1998; Feb. 17, 1999).

In No. 99-6666, Kelley appeals the district court's dismissal of his civil rights action. We dismiss the appeal for lack of jurisdiction because Kelley's notice of appeal was not timely filed. In cases where the United States is a party, parties are accorded sixty days after the entry of the district court's final judgment or order to note an appeal, see Fed. R. App. P. 4(a)(1), unless the district court extends the appeal period under Fed. R. App. P. 4(a)(5) or reopens the appeal period under Fed. R. App. P. 4(a)(6). This appeal period is "mandatory and jurisdictional." Browder v. Director, Dep't of Corrections, 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)).

The district court's order was entered on the docket on December 9, 1998. Kelley's notice of appeal was filed on March 30, 1999. Because Kelley failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal. We deny Kelley's pending motion for general re-

lief and dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

No. 99-6635 -- AFFIRMED

No. 99-6666 -- DISMISSED